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November 12, 2020

Hon. Ronnie Abrams
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Boja Kragulj v. Martha Cortes, D.D.S., et al*;
U.S. D.Ct, SDNY;
Index #: 1:20-cv-08390 (RA)

Dear Judge Abrams:

I represent the plaintiff in the above-referenced matter, and am hereby moving the Court to adjourn the Initial Status Conference, currently scheduled for November 20, 2020, as well as the attendant November 13, 2020 deadline for filing a joint letter of counsel to the court and proposed case management plan and scheduling order.

No previous requests for adjournment or extensions of time have been made. Counsel for defendant Dr. Martha Cortes, D.D.S. ("Cortes") consents to the requested adjournment. The remaining defendants- Steve Galella, D.D.S. ("Galella"), Facial Beauty Institute ("FBI") and OrthoMatrix Corp., Inc. ("OrthoMatrix") - have not as yet appeared, either themselves or through counsel, in this case.

As grounds for the motion, plaintiff states as follows:

1. Plaintiff filed the Complaint in this matter, through the ECF system, on October 7, 2020.
2. On October 8, 2020, pursuant to Rule 4(d) of the Federal Rules of Civil Procedure, plaintiff mailed a Notice of a Lawsuit and Request to Waive Service of a Summons, along with a Waiver of the Service of Summons form, to each defendant. The deadline for returning the Waiver of the Service of Summons form was 30 days from October 8th.
3. On October 9, 2020, the Court issued an Order, directing all parties to submit a joint letter to the Court with certain information, as well as a proposed case management plan and scheduling order, all by November 13, 2020. The Court further directed plaintiff's counsel to serve said Order upon all defendants.
4. On October 10, 2020, plaintiff mailed a copy of the Court's aforesaid Order to every defendant.

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5. Only defendant Cortes agreed to waive service by returning the appropriate form within the 30-day deadline, and said defendant through counsel has filed an Answer in this case.

6. The deadline having now passed for waiving service, plaintiff has sent Summons and Complaint to a process server in Tennessee, in order to expeditiously serve each non-waiving defendant, each of whom is a resident of that state.

7. With three of the four defendants having failed to return the Waiver of the Service of Summons form or filed an Answer or otherwise appeared in the action within the 30-day deadline, plaintiff is unable to meet the obligations set forth in the Court's aforementioned Order of October 9, 2020.

8. More specifically, plaintiff cannot coordinate a joint letter from all parties to the Court, nor submit a proposed case management plan and scheduling order without input from the defendants Galella, OrthoMatrix and FBI.¹

9. Therefore, plaintiff respectfully moves, in the interest of the efficient administration of Justice and given the circumstances as outlined above, that this Court adjourn the Initial Status Conference in this matter, as well as the attendant deadline for filing a joint letter of counsel to the court and proposed case management plan and scheduling order, to a date not less than 45 days from the originally scheduled deadline and date set by the Court.

10. The requested adjournment will provide enough time for: a) plaintiff to make service in-hand on the three foreign defendants who have not waived service or otherwise appeared; b) said defendants to file their Answers or otherwise respond within 21 days thereafter; and c) all parties to then cooperate in the drafting and filing of the Court's required joint letter of counsel to the court and proposed case management plan and scheduling order.

WHEREFORE, PLAINTIFF BOJA KRAGULJ MOVES THIS COURT TO:

- 1) ADJOURN THE DEADLINE FOR FILING JOINT LETTER OF COUNSEL AND PROPOSED CASE MANAGEMENT PLAN AND SCHEDULING ORDER FROM NOVEMBER 13, 2020 TO A DATE AT LEAST 45 DAYS AFTER SAID DATE; AND,**
- 2) ADJOURN THE INITIAL STATUS CONFERENCE FROM NOVEMBER 20, 2020 TO A DATE AT LEAST 45 DAYS AFTER SAID DATE.**

¹ Plaintiff represents that he has had communication with attorneys who expect to submit appearances for defendants Galella, OrthoMatrix and FBI, but have insurance coverage and other issues that must be resolved before they can appear and answer for those three defendants. Plaintiffs have served those attorneys, Brian L. Feld, Esq. and Joseph P. Rosh, Esq. with a copy this letter motion. Mr. Rosh has asked that I represent to the Court that he does represent Dr. Galella, and he assents to the instant motion.

Respectfully submitted,

/s/ SEC

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically this day to the registered participants as identified on the Notice of Electronic Filing (NEF). In addition, a copy of this document was sent this day by email to Brian L. Feld, Esq. and Joseph Rosh, Esq.

Date: November 12, 2020

/s/ SEC

Scott E. Charnas

Application granted. The initial pretrial conference is hereby adjourned until January 8, 2021 at 11:30 a.m. The parties shall submit a joint letter by December 31, 2020.

SO ORDERED.



Hon. Ronnie Abrams
November 13, 2020